

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 17929 of 2004

Between:

1 Namburi Subba Rao, S/o. Koteswara Rao, 45 years,
Senior Mechanic in Electronics and Communications Engineering Dept.,
Bapatla Engineering College, R/o. D.No.4-9-83, 4th Line, Patel Nagar,
Bapatla, Guntur District.

2. Patibandla Ravindranath, S/o. Subba Rao,
35 years, Occ: Lab-Assistant in Electronics and Communications
Engineering Dept., Bapatla Engineering College, Bapatla, Guntur District.

.....PETITIONERS

AND

- 1 Bapatla Engineering College, Bapatla, Guntur Dist, rep. by its Principal.
- 2 The Bapatla Engineering College, Bapatla, Guntur Dist, rep. by its President.
- 3 The Govt. of A.P., rep. by its Director of Technical Education, BRKR Buildings, Tankbund, Hyderabad.
- 4 The Govt., of A.P., rep. by its Principal Secretary, Labour Employment Training and Factories Dept., Secretariat, Hyderabad.
- 5 All India Council for Technical Education, Indira Gandhi Sports Complex, I.P. Estate, New Delhi, rep. by its Chairman.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ, declaring the action of the 1st

respondent in passing the transfer order impugned i.e., Ref. BEC/PF/2061 Dt. 30.9.2004 as illegal, arbitrary and changing the service conditions and it is further consequently prayed that this Hon'ble Court may be pleased to set-aside the said transfer order and it is further consequently prayed that this Hon'ble Court may be pleased to direct the respondents to retain the petitioners in the present posts they are holding i.e., Senior Mechanics and Lab-Assistant respectively in the departments of Electronics and Communications Engineering of Bapatla Engineering College, Bapatla, Guntur District.

Counsel for the Petitioner: MR.S.R.SANKU

**Counsel for the Respondents: GP FOR TECHNICAL
EDUCATION**

The Court made the following :

ORDER:

The petitioners worked as Lab technician and lab Assistant in the Electronics and Engineering department of the first respondent college. Subsequently, the first petitioner was promoted as a Senior Mechanic in the department of Electronics and Communication Engineering of Bapatla Engineering College. They are working in the said college since 1990 and 1991 respectively. The Principal of the first respondent college through the proceedings dated 30-09-2004 transferred both the petitioners to the Chemistry and Physics department respectively. The petitioners are contending that the transfer order dated 30-09-2004 is illegal and arbitrary and they are contending that the transfers were

effected on account of animosity between the petitioners and the management, as they were making efforts to get their legitimate pay scales by corresponding with the Director of Technical Education. The petitioners further contended that the posts in Electronics department are technical in nature, whereas the posts in Chemistry and Physics are non-technical in nature. Therefore, transferring the petitioners from technical department to non-technical department is causing prejudice to them and it is detrimental to the interests of the petitioner.

The learned Counsel for the respondents represented that the transfer of the petitioners from one department to another department of the same college is not causing any prejudice to the petitioners as the management is not affecting their seniority and monetary benefits. Therefore, they cannot question the orders of transfer through this writ petition. The learned Counsel for the respondents further submitted that since the first respondent college is an un-aided private college, it will not come within the definition of State under Article 12 of the Constitution of India. Therefore, the writ petition cannot be maintained.

The learned Counsel for the petitioner submits that though the college is an un-aided private college, which is governed by the rules and regulations issued by respondents 3 to 5 from time to time. Therefore it comes within the purview of Article 12 of the Constitution of India. Since the respondents are contending that the service conditions of the petitioners are in no way affected on account of the transfer effected from one department to another department, it is needless to go to the aspect whether the respondent college comes within the definition of State under Article 12 of the Constitution of India. It is sufficient if a direction is given to the first respondent to examine whether any prejudice is caused to the petitioners regarding their seniority or monetary benefits on account of the transfer from Electronics department to Chemistry and Physics department.

In the light of the above circumstances, the respondents 3 to 5 are directed to examine whether the transfer of the petitioners from Electronics department to Chemistry and Physics departments of the same college in any way affects their rights regarding their seniority or the service conditions and monetary benefits and if they find that they remain as it is, there is no need to further probe into the matter. But if any of those conditions are going to be affected, the respondents 2 to 4 are directed to pass appropriate orders to protect the

seniority and service conditions of the petitioners which they were having while working in Electronics department.

Accordingly, the writ petition is disposed of.

26-10-2004

MRKR

To

1.The Director of Technical Education, B.R.K.R.Buildings, Tank Bund,

Hyderabad.

2.The Principal Secretary, Labour Employment Training and Factories Department, Secretariat, Hyderabad.

3.The Chairman, All India Council for Technical Education, Indira Gandhi Sports Complex, I.P.Estate, New Delhi.

4.Two C.Cs to G.P. for Technical Education, High Court Buildings, Hyderabad.

5.Two C.D. copies.